

# HOUSE BILL REPORT

## ESHB 2460

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### As Amended by the Senate

**Title:** An act relating to access to health insurance for small employers and their employees.

**Brief Description:** Providing access to health insurance for small employers and their employees.

**Sponsors:** By House Committee on Health Care (originally sponsored by Representatives Cody, Campbell, Kessler, Morrell, Haigh, Kenney, Santos, Hatfield, Blake, Linville, Upthegrove, G. Simpson, Moeller and Lantz).

### Brief History:

#### Committee Activity:

Health Care: 1/20/04, 2/5/04 [DPS].

#### Floor Activity:

Passed House: 2/17/04, 63-33.

Senate Amended.

Passed Senate: 3/3/04, 32-16.

### Brief Summary of Engrossed Substitute Bill

- Authorizes health carriers to offer limited scope health plans.
- Changes the small group size from one to 50 to two to 50.

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### HOUSE COMMITTEE ON HEALTH CARE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Cody, Chair; Morrell, Vice Chair; Bailey, Ranking Minority Member; Alexander, Benson, Campbell, Clibborn, Edwards, Moeller, Rodne, Schual-Berke and Skinner.

**Minority Report:** Do not pass. Signed by 1 member: Representative Darneille.

**Staff:** Dave Knutson (786-7146).

### Background:

As in other states, most people in Washington who receive their health insurance through the private market do so through their employer in what is referred to as the group market. Within that group market, Washington law distinguishes between plans provided to "small groups," defined to include those employing between one and 50 people, and "large groups" which

includes those employing more than 50. A separate set of standards also applies to the individual market, where those not provided coverage by their employer can get their health insurance.

Various mandates in Washington law require that health plans sold in the state, including in the small group market, cover particular conditions and reimburse for services provided by identified types of providers. Plans offered to groups of up to 25 are exempt from many of these mandates.

The law further requires carriers in the small group market to offer a plan with benefits identical to those provided in the state's Basic Health Plan, and also exempts such plans from the various benefit mandates.

All plans subject to state regulation, without exception, are required to cover every category of provider. This means for any treatment sought, enrollees must be given the option of receiving that treatment from any type of provider, as long as the condition is covered by the plan, the treatment is appropriate for the condition, and the provider is acting within his or her scope of practice.

The premiums charged for small group plans are also governed by state law. In general, plans must be community-rated, with rate variations allowed based only on geographic area, family size, age and wellness activities. Variations for age and wellness must be within a specified range.

Current law also requires that carriers accept for enrollment any person within a group, large or small, to whom a plan is offered. This is known as guaranteed issue. Carriers are also required to guarantee continuity of coverage, meaning that, with some exceptions, they may not cancel or fail to renew a group plan unless it is replaced with a similar product or they are completely withdrawing from a service area.

Federal law requires employers with 20 or more employees to offer continuation coverage under COBRA provisions. There is no comparable state or federal requirement for employers with fewer than 20 employees.

There is concern that insurance in the small group market is becoming increasingly unaffordable, prompting employers to shift more of the costs to their employees, or drop coverage altogether.

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### **Summary of Engrossed Substitute Bill:**

Health carriers are not required to offer small employers a benefit plan identical to the Basic Health Plan is eliminated. Health carriers are authorized to offer a limited health plan that features a limited schedule of covered health care services.

The exemption from existing mandates is made applicable to plans offered to any small employer, not just those employing up to 25 employees.

The restriction on how much rates may vary based on wellness activities is eliminated.

Carriers may develop rates based on claims costs due to network provider reimbursement schedules or type of network.

The definition of small employer is changed from an establishment employing between one and 50 employees to an establishment employing between two and 50 employees. However, existing groups of one will be grandfathered.

Current continuity of coverage provisions are amended to cover plans of groups of up to 200, and to allow a group plan to be discontinued, with 90 days notice, as long as policyholders are allowed to continue coverage in any other group plan offered by the carrier. A group plan may also be discontinued if the carrier discontinues all coverage in the particular market.

Employees working for small employers with fewer than 20 employees who leave their jobs may apply for individual health insurance policies without first taking the health questionnaire.

The requirement that carriers offer conversion policies is repealed. Persons who lose their conversion coverage may apply for individual coverage without taking the standard health questionnaire.

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#### **EFFECT OF SENATE AMENDMENT(S):**

Health carriers may offer to small employers a plan with a limited schedule of benefits that is not subject to any of the mandates that apply to other group plans, including the requirement that every category of provider must be covered. Carriers offering this plan must also offer at least one other plan. When rates are renewed, rate increases may vary by plus or minus ten percentage points, if the variation is based on deductible leveraging, benefit design, or provider network characteristics. Persons who would have qualified for federal COBRA coverage but for the size of their employer do not have to take the health screen when applying for individual health coverage if they have had twenty four months of continuous coverage and apply within ninety days of when they would have qualified for COBRA coverage.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** Changes are needed in the small group market to make health insurance more affordable and available.

**Testimony Against:** Mandated benefits cover cost effective health services and should be required in all insurance policies. Every category of health care provider should be covered by every insurance policy.

**Persons Testifying:** (In support) Ree Sailors, Governor's Office.

(Support with concerns) Bill Dailey and Beth Berent, Office of the Insurance Commissioner.

(Support with amendments) Nancee Wildermuth, Regence; Rick Wickman, Premera; Ken Bertrand, Group Health Cooperative; Carolyn Logue, National Federation of Independent Business; Gary Smith, Independent Business Association; and Amber Balch, Association of Washington Business.

(Concerns) Tanis Marsh, League of Women Voters of Washington; and Lori Bielinski, Chiropractic Association.

(Opposed) Lonnie Johns Brown, Clinical Society for Social Work; Lucy Homans, Washington State Psychological Association; Gail McGaffick, Washington Association of Diabetes Education and Washington State Hospice and Palliative Care Organization; Sharon Chambers, Washington State Association of Alcoholism and Addictions Programs; and Seth Dawson, NAMI WA.

**Persons Signed In To Testify But Not Testifying:** (Opposed) Donna Christensen, Diabetes Association; Kristen Rogers, National Association of Social Workers; and Nick Federici, Lung Association, Marriage and Family Therapists, and Midwives.

(Concerns) Melanie Stewart, American Association of Massage Therapy, Washington Chapter and Washington Mental Health Counselors Association.